

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1289

Introduced by Assembly Member Price

February 23, 2007

An act to amend Section 19604 of the Business and Professions Code, relating to horse racing.

LEGISLATIVE COUNSEL’S DIGEST

AB 1289, as amended, Price. Advance deposit wagering: out-of-state providers.

Existing law authorizes advance deposit wagering to be conducted, with the approval of the California Horse Racing Board. Under existing law, advance deposit wagering is defined as a form of parimutuel wagering in which a person residing within California or outside of the state establishes an account with a licensee, board-approved betting system, or multijurisdictional wagering hub located within California or outside of the state.

This bill would remove from that definition, and from all provisions related to the authorization of advance deposit wagering, the reference to a multijurisdictional wagering hub located outside of the state.

Under existing law, in order for a licensee, betting system, or multijurisdictional wagering hub to be approved by the board to conduct advance deposit wagering, it must meet certain requirements.

This bill would add to those requirements that the employees who operate and administer the advance deposit wagering on a daily basis shall work in California.

Existing law requires the California Horse Racing Board to adopt rules to license and regulate all phases of operation of advance deposit

wagering for licensees, betting systems, and multijurisdictional hubs located in California.

This bill would require the rules adopted by the board to include a requirement that employees represented in the same or similar classifications be employed at a ratio of one employee for every \$20,000 in wagers handled by those licensees, betting systems, and multijurisdictional hubs.

Existing law specifies how the amount received as a market access fee from advance deposit wagers shall be distributed.

This bill would require that a specified amount of that fee be used to establish and administer a defined contribution retirement plan for California jockeys, as specified.

Under existing law, the provisions relating to advance deposit wagering will be repealed on January 1, 2008.

This bill would delay the repeal date until January 1, 2011.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 19604 of the Business and Professions
- 2 Code is amended to read:
- 3 19604. Notwithstanding any other provision of law, in addition
- 4 to parimutuel wagering otherwise authorized by this chapter,
- 5 advance deposit wagering may be conducted upon approval of the
- 6 board. The board may authorize any racing association or fair,
- 7 during the calendar period it is licensed by the board to conduct a
- 8 live racing meeting in accordance with the provisions of Article
- 9 4 (commencing with Section 19480), to accept advance deposit
- 10 wagers or to allow these wagers through a betting system or a
- 11 multijurisdictional wagering hub in accordance with the following:
- 12 (a) Racing associations and racing fairs may form a partnership,
- 13 joint venture, or any other affiliation in order to further the purposes
- 14 of this section.
- 15 (b) As used in this section, “advance deposit wagering” means
- 16 a form of parimutuel wagering in which a person residing within
- 17 California or outside of this state establishes an account with a
- 18 licensee, a board-approved betting system, or a board-approved
- 19 multijurisdictional wagering hub located within California, and
- 20 subsequently issues wagering instructions concerning the funds

1 in this account, thereby authorizing the entity holding the account
2 to place wagers on the account owner's behalf. An advance deposit
3 wager may be made only by the entity holding the account pursuant
4 to wagering instructions issued by the owner of the funds
5 communicated by telephone call or through other electronic media.
6 The licensee, a betting system, or a multijurisdictional wagering
7 hub shall ensure the identification of the account's owner by
8 utilizing methods and technologies approved by the board. Further,
9 at the request of the board, any licensee, betting system, or
10 multijurisdictional wagering hub located in California shall provide
11 a full accounting and verification of the source of the wagers
12 thereby made, including the zone and breed, in the form of a daily
13 download of parimutuel data to a database designated by the board.
14 Additionally, when the board approves a licensee, a betting system,
15 or a multijurisdictional wagering hub located within California to
16 accept advance deposit wagering instructions on any race or races
17 from California residents, the licensee, betting system, or
18 multijurisdictional wagering hub may be compensated pursuant
19 to a contractual agreement with a California licensee, in an amount
20 not to exceed 6.5 percent of the amount handled on a race or races
21 conducted in California, and in the case of a race or races conducted
22 in another jurisdiction, may be compensated in an amount not to
23 exceed 6.5 percent, plus a fee to be paid to the host racing
24 association not to exceed 3.5 percent, of the amount handled on
25 that race or races. The amount remaining after the payment of
26 winning wagers and after payment of the contractual compensation
27 and host fee, if any, shall be distributed as a market access fee in
28 accordance with subdivision (g). As used in this section, "market
29 access fee" means the contractual fee paid by a betting system or
30 multijurisdictional wagering hub to the California licensee for
31 access to the California market for wagering purposes. As used in
32 this section, "licensee" means any racing association or fair, or
33 affiliation thereof authorized in subdivision (a).

34 (c) (1) The board shall develop and adopt rules to license and
35 regulate all phases of operation of advance deposit wagering for
36 licensees, betting systems, and multijurisdictional wagering hubs
37 located in California. Betting systems and multijurisdictional
38 wagering hubs located and operating in California shall be
39 approved by the board prior to establishing advance deposit
40 wagering accounts or accepting wagering instructions concerning

1 those accounts and shall enter into a written contractual agreement
2 with the bona fide labor organization that has historically
3 represented the same or similar classifications of employees at the
4 nearest horse racing meeting. Permanent state or county employees
5 and nonprofit organizations that have historically performed certain
6 services at county, state, or district fairs may continue to provide
7 those services, notwithstanding this requirement. *The rules adopted*
8 *by the board shall include a requirement that employees*
9 *represented in the same or similar classifications shall be employed*
10 *at a ratio of one employee for every twenty thousand dollars*
11 *(\$20,000) in wagers handled by the licensees, betting systems, and*
12 *multijurisdictional hubs subject to this section.*

13 (2) The board shall develop and adopt rules and regulations
14 requiring betting systems and multijurisdictional wagering hubs
15 to establish security access policies and safeguards, including, but
16 not limited to, the following:

17 (A) The betting system or wagering hub shall utilize the services
18 of a board-approved independent third party to perform identity,
19 residence, and age verification services with respect to persons
20 establishing an advance deposit wagering account.

21 (B) The betting system or wagering hub shall utilize personal
22 identification numbers (PINs) and other technologies to assure
23 that only the accountholder has access to the advance deposit
24 wagering account.

25 (C) The betting system or wagering hub shall provide for
26 withdrawals from the wagering account only by means of a check
27 made payable to the accountholder and sent to the address of the
28 accountholder or by means of an electronic transfer to an account
29 held by the verified accountholder or the accountholder may
30 withdraw funds from the wagering account at a facility approved
31 by the board by presenting verifiable personal and account
32 identification information.

33 (D) The betting system or wagering hub shall allow the board
34 access to its premises to visit, investigate, and place expert
35 accountants and other persons it deems necessary for the purpose
36 of ensuring that its rules and regulations concerning credit
37 authorization, account access, and other security provisions are
38 strictly complied with.

39 (3) The board shall prohibit advance deposit wagering
40 advertising that it determines to be deceptive to the public. The

board shall also require, by regulation, that every form of advertising contain a statement that minors are not allowed to open or have access to advance deposit wagering accounts.

(d) As used in this section, a “multijurisdictional wagering hub” is a business conducted in more than one jurisdiction that facilitates parimutuel wagering on races it simulcasts and other races it offers in its wagering menu.

(e) As used in this section, a “betting system” is a business conducted exclusively in this state that facilitates parimutuel wagering on races it simulcasts and other races it offers in its wagering menu.

(f) In order for a licensee, betting system, or multijurisdictional wagering hub to be approved by the board to conduct advance deposit wagering, it shall meet all of the following requirements:

(1) All wagers thereby made shall be included in the appropriate parimutuel pool of the host racing association or fair under a contractual agreement with the applicable California licensee, in accordance with the provisions of this chapter.

(2) The amounts deducted from advance deposit wagers shall be in accordance with the provisions of this chapter.

(3) The employees who operate and administer the advance deposit wagering on a daily basis shall work in California.

(g) The amount received as a market access fee from advance deposit wagers, which shall not be considered for purposes of Section 19616.51, shall be distributed as follows:

(1) An amount equal to 0.0011 multiplied by the amount handled on advance deposit wagers originating in California for each racing meeting shall be distributed to the Center for Equine Health to establish the Kenneth L. Maddy Fund for the benefit of the School of Veterinary Medicine at the University of California at Davis.

(2) An amount equal to 0.0003 multiplied by the amount handled on advance deposit wagers originating in California for each racing meeting shall be distributed to the Department of Industrial Relations to cover costs associated with audits conducted pursuant to Section 19526 and for the purposes of reimbursing the State Mediation and Conciliation Service for costs incurred pursuant to this bill. However, if that amount would exceed the costs of the Department of Industrial Relations, the amount distributed to the department shall be reduced, and that reduction shall be forwarded to an organization designated by the racing association or fair

1 described in subdivision (a) for the purpose of augmenting a
2 compulsive gambling prevention program specifically addressing
3 that problem.

4 (3) An amount equal to 0.00165 multiplied by the amount
5 handled on advance deposit wagers that originate in California for
6 each racing meeting shall be distributed as follows:

7 (A) One-half of the amount shall be distributed to supplement
8 the trainer-administered pension plans for backstretch personnel
9 established pursuant to Section 19613. Moneys distributed pursuant
10 to this subparagraph shall supplement, and not supplant, moneys
11 distributed to that fund pursuant to Section 19613 or any other
12 provision of law.

13 (B) One-half of the amount shall be distributed to the welfare
14 fund established for the benefit of horsemen and backstretch
15 personnel pursuant to subdivision (b) of Section 19641. Moneys
16 distributed pursuant to this subparagraph shall supplement, and
17 not supplant, moneys distributed to that fund pursuant to Section
18 19641 or any other provision of law.

19 (4) With respect to wagers on each breed of racing that originate
20 in California, an amount equal to 2 percent of the first two hundred
21 fifty million dollars (\$250,000,000) of handle from all advance
22 deposit wagers originating from within California annually, an
23 amount equal to 1.5 percent of the next two hundred fifty million
24 dollars (\$250,000,000) of handle from all advance deposit wagers
25 originating from within California annually, and an amount equal
26 to 1 percent of handle from all advance deposit wagers originating
27 from within California in excess of five hundred million dollars
28 (\$500,000,000) annually, shall be distributed as satellite wagering
29 commissions. The satellite wagering facility commissions
30 calculated in accordance with this subdivision shall be distributed
31 to each satellite wagering facility and racing association or fair in
32 the zone in which the wager originated in the same relative
33 proportions that the satellite wagering facility or the racing
34 association or fair generated satellite commissions during the
35 previous calendar year. In the event of a reduction in the satellite
36 wagering commissions, pursuant to this section, the benefits
37 therefrom shall be distributed equitably as purses and commissions
38 to all associations and racing fairs generating advance deposit
39 wagers in proportion to the handle generated by those associations
40 and racing fairs. For purposes of this section, the purse funds

1 distributed pursuant to Section 19605.72 shall be considered to be
2 satellite wagering facility commissions attributable to thoroughbred
3 races at the locations described in that section.

4 *(5) An amount equal to 0.00395 multiplied by the amount*
5 *handled on advanced deposit wagers originating in California for*
6 *each racing meeting shall be distributed to the California Horse*
7 *Racing Board to establish and to administer jointly with the*
8 *organization certified as the majority representative of California*
9 *licensed jockeys pursuant to Section 19612.9, a defined*
10 *contribution retirement plan for California licensed jockeys who*
11 *retired from racing on or after January 1, 2003, and who, as of*
12 *the date of their retirement, had ridden in a minimum of 1,250*
13 *parimutuel races conducted in California.*

14 ~~(5)~~

15 (6) With respect to wagers on each breed of racing that originate
16 in California for each racing meeting, after the payment of
17 contractual obligations to the licensee, the betting system, or the
18 multijurisdictional wagering hub, and the distribution of the
19 amounts set forth in paragraphs (1) through ~~(4)~~ (5), inclusive, the
20 amount remaining shall be distributed to the racing association or
21 fair that is conducting live racing on that breed during the calendar
22 period in the zone in which the wager originated, and this amount
23 shall be allocated to that racing association or fair as commissions,
24 to horsemen participating in that racing meeting in the form of
25 purses, and as incentive awards, in the same relative proportion
26 as they were generated or earned during the prior calendar year at
27 that racing association or fair on races conducted or imported by
28 that racing association or fair after making all deductions required
29 by applicable law. Purse funds generated pursuant to this section
30 may be utilized to pay 50 percent of the total costs and fees
31 incurred due to the implementation of advance deposit wagering.
32 “Incentive awards” shall be those payments provided for in
33 Sections 19617.2, 19617.7, 19617.8, 19617.9, and 19619. The
34 amount determined to be payable for incentive awards shall be
35 payable to the applicable official registering agency and thereafter
36 distributed as provided in this chapter. If the provisions of Section
37 19601.2 apply, then the amount distributed to the applicable racing
38 associations or fairs from advance deposit wagering shall first be
39 divided between those racing associations or fairs in direct
40 proportion to the total amount wagered in the applicable zone on

1 the live races conducted by the respective association or fair.
2 Notwithstanding this requirement, when the provisions of
3 subdivision (b) of Section 19607.5 apply to the 2nd District
4 Agricultural Association in Stockton or the California Exposition
5 and State Fair in Sacramento, then the total amount distributed to
6 the applicable racing associations or fairs shall first be divided
7 equally, with 50 percent distributed to applicable fairs and 50
8 percent distributed to applicable associations. For purposes of this
9 subdivision, the zones of the state shall be as defined in Section
10 19530.5, except as modified by the provisions of subdivision (f)
11 of Section 19601, and the combined central and southern zones
12 shall be considered one zone.

13 Notwithstanding any provision of this section to the contrary,
14 the distribution of the market access fee, other than the distributions
15 specified in paragraph (1) or (2), may be altered upon the approval
16 of the board, in accordance with an agreement signed by all parties
17 receiving a distribution under paragraphs (4) and ~~(5)~~ (6).

18 (h) Notwithstanding any provisions of this section to the
19 contrary, all funds derived from advance deposit wagering that
20 originate from California for each racing meeting on out-of-state
21 and out-of-country thoroughbred races conducted after 6 p.m.,
22 Pacific time, shall be distributed in accordance with this
23 subdivision. With respect to these wagers, 50 percent of the amount
24 remaining after the payment of contractual obligations to the
25 multijurisdictional wagering hub, betting system, or licensee and
26 the amounts set forth in paragraphs (1) through ~~(5)~~ (3), inclusive,
27 of subdivision (g) shall be distributed as commissions to
28 thoroughbred associations and racing fairs, as thoroughbred and
29 fair purses, and as incentive awards in accordance with subdivision
30 (g), and the remaining 50 percent, together with all funds derived
31 for each racing meeting from advance deposit wagering originating
32 from California out-of-state and out-of-country harness and quarter
33 horse races conducted after 6 p.m., Pacific time, shall be distributed
34 as commissions on a pro rata basis to the applicable licensed
35 quarter horse association and the applicable licensed harness
36 association, based upon the amount handled instate, both on- and
37 off-track, on each breed's own live races in the previous year by
38 that association, or its predecessor association. One-half of the
39 amount thereby received by each association shall be retained by
40 that association as a commission, and the other half of the money

1 received shall be distributed as purses to the horsemen participating
2 in its current or next scheduled licensed racing meeting.

3 (i) Notwithstanding any provisions of this section to the contrary,
4 all funds derived from advance deposit wagering which originate
5 from California for each racing meeting on out-of-state and
6 out-of-country nonthoroughbred races conducted before 6 p.m.,
7 Pacific time, shall be distributed in accordance with this
8 subdivision. With respect to these wagers, 50 percent of the amount
9 remaining after the payment of contractual obligations to the
10 multijurisdictional wagering hub, betting system, or licensee and
11 the amounts set forth in paragraphs (1) through ~~(5)~~ (6), inclusive,
12 of subdivision (g) shall be distributed as commissions as provided
13 in subdivision (h) for licensed quarter horse and harness
14 associations, and the remaining 50 percent shall be distributed as
15 commissions to the applicable thoroughbred associations or fairs,
16 as thoroughbred and fair purses, and as incentive awards in
17 accordance with subdivision (g).

18 (j) A racing association, a fair, or a satellite wagering facility
19 may accept and facilitate the placement of any wager from a patron
20 at its facility that a California resident could make through a betting
21 system or multijurisdictional wagering hub duly offering advance
22 deposit wagering in this state, and the facility accepting the wager
23 shall receive a 2-percent commission on that wager in lieu of any
24 distribution for satellite commissions pursuant to subdivision (g).

25 (k) Any disputes concerning the interpretation or application of
26 this section shall be resolved by the board.

27 This section shall remain in effect only until January 1, 2011,
28 and as of that date is repealed, unless a later enacted statute, that
29 is enacted before January 1, 2011, deletes or extends that date.